

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA	§	
	§	
	§	CRIMINAL NO. 1:10-CR-70 (RC)
VS.	§	
	§	HONORABLE RON CLARK
	§	
ROGELIO D. PINEDA, ET. AL.	§	

DEFENDANTS' FIRST UNOPPOSED MOTION TO CONTINUE TRIAL

TO THE HONORABLE JUDGE CLARK:

COMES NOW, JONATHAN CUADROS-ZABALA, Defendant, by and through T. B. Todd Dupont II, and files this *Defendants' First Unopposed Motion to Continue Trial*, respectfully showing the following:

1. Defendants are currently set for jury trial on February 8, 2011 at 9:00 AM.
2. At this time, counsel are unprepared for this trial. Discovery in this case is voluminous, and not yet complete at this time. Counsel for Defendants are each still diligently investigating the underlying facts made the basis of this indictment. The government has openly provided discovery thus far in this matter, and discussions about guilt/innocence are meaningful, and still on-going.
3. Counsel herein would particularly show as follows: First, there are 40 defendants in this case, and all have been apprehended other than two fugitives, who are believed to be in Mexico (no party herein is asking for a continuance until they are apprehended). Second, of the 38, 15 Defendants have been presented with plea agreements contemplating a base offense level of 38 (which is the top drug guideline). Third, Defendant Rogelio Pineda (Deft. #1), who is the target of 10 of the wiretaps in this case, has not been provided with discovery or arraigned on the *First Superseding Indictment* based on a possible conflict of interest. He is currently awaiting the

District Court's ruling on that issue. That ruling is not anticipated to be filed until December 21, 2010 at the earliest (14 days after the Magistrate Judge's ruling). If the District Court follows the Magistrate Judge's ruling, a new attorney must be appointed and the defendant must be arraigned. Further, that counsel and Defendant will then be provided discovery consisting of approximately 70 CD's of phone calls, tapes, photos, and reports to review. Fourth, Virgilio Cano-Aguirre (Deft. #39) has recently been arrested and released on conditions in the Southern District of Texas. The 5(c) documents were received in this district on December 14, 2010 and this Defendant has not been arraigned or appointed counsel as of this time. Fifth, Christopher Miguez (Deft. # 23) is also without an attorney. He previously retained Michael Nguyen, who was allowed to withdraw on December 9, 2010. Sixth, Kenneth Collins (Deft. #20) was appointed an attorney on December 15, 2010 after his previous counsel, Gary Bonneaux, withdrew from his case. Seventh, Alberto Pineda-Goicochea (Deft. #37) and Carlos Morillo (Deft. #38) were just recently arraigned on December 8, 2010 and December 13, 2010, respectively. Eighth, Defendants Rogelio Pineda, Cano-Aguirre, Miguez, Collins, and Morillo have not received plea agreements, since either they have no attorney on their case or the recency of their addition to the case. All other defendants have received plea agreements. Ninth, counsel for Defendant has learned that the U.S. Attorney, Michelle Englade, has received three signed plea agreements in her office as of this time, and anticipates that more will be received prior to her December 17, 2010 deadline. Ostensibly, these can be set for re-arraignments at any time.

4. This case has been certified as a complex case.

5. Counsel herein would ask for a 120-day continuance to let these issues become resolved.

6. **WHEREFORE, PREMISES CONSIDERED**, the Defendants pray the Court will grant them this unopposed first continuance in this cause, so that counsel for Defendants will have a

reasonable amount of time to effectively prepare for trial or plea.

Respectfully submitted,

DUPONT ★ DUPONT

By: /s/ T. B. Todd Dupont II

T. B. Todd Dupont II

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ATTORNEY FOR DEFENDANT

JONATHAN CUADROS-ZABALA

CERTIFICATE OF CONFERENCE

I hereby certify that I have consulted with the following counsel regarding the foregoing *Motion*, who have stated on the 17th day of December, 2010 that they are **UNOPPOSED** to this *Motion*:

Attorney:

Represents:

(1) Michelle Englade	--	United State of America
(2) Stephen Touchstone	--	Alejandro Ortiz
(3) Juan Guerra	--	Jose Duarte-Bautista
(4) Andrea Kolski	--	Patrick Fernand Brupbacher
(5) G. S. Montalvo	--	Samuel Pineda Pineda
(6) Don Lambright	--	Deal Desai
(7) Craig Bass	--	Juan Carlos Soto
(8) Greg Waldron	--	Kenneth Collins
(9) Jim Lindeman	--	Ashley Henry
(10) Eric Davis	--	Jorge Duarte Garcia
(11) Tom Roebuck	--	Joshua Lee Haynes
(12) Jimmy Hamm	--	Lester McCoy
(13) Steve St. Martin	--	David Ruiz
(14) Thomas Bevans	--	Orlando Pineda-Espinoza
(15) Raquel West	--	Trish Lynn Taylor
(16) Patsy McLelleand	--	Amando Garcia-Duarte
(17) Daniel Perez-Garcia	--	Julian Duarte Molina
(18) David Cunningham	--	John Anthony Molenda
(19) Mark Thering	--	Jesus Pineda-Espinoza
(20) Russell Wright	--	Raul Pineda
(21) Seth Kretzer	--	Aurelio Pineda-Moreno
(22) Connie Williams	--	German Gomez-Rios
(23) John T. Floyd	--	Mohammad Zahid

Further, the following lawyers have **NOT** joined this Motion, but state:

Attorney:

Represents:

(24) Thomas Burbank	--	Joshua Bland (filed his own Motion on 12/16/10)
(25) David Barlow	--	Aldo Maldonado-Herrera (no objection to Motion)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served upon the Assistant United States Attorney for the government herein, and all other parties, via **Southern District of Texas Case Management/Electronic Case Filing (CM/ECF) program**, a true copy thereof this the 19th day of December, 2010.

By: /s/ T. B. Todd Dupont II
T. B. Todd Dupont II

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UNITED STATES OF AMERICA

VS.

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HONORABLE RON CLARK

ORDER

BE IT REMEMBERED that on this day came to be heard *Defendants' First Unopposed Motion for Continuance of Trial* and the Court having considered same is of the opinion that said motion should be and is hereby:

_____ GRANTED.

_____ DENIED. (To which ruling Defendants timely object.)